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# KATHLEEN VINEHOUT

## STATE SENATOR

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Testimony in support of ~~SB 308~~ <sup>AB 464</sup>  
Committee on Small Business, Emergency Preparedness, Technical Colleges and  
Consumer Protection  
Wednesday, October 14, 2009

Good afternoon Chairman Wirch and Committee members. Thank you for hearing Senate Bill 308 which protects volunteer firefighters, Emergency Medical Technicians (EMT) and First Responders from being punished for their service to the public good.

Citizens and businesses across Wisconsin depend on volunteers to protect their lives and property. Today over 90% of Wisconsin's firefighters and 80% of Wisconsin's EMTs are volunteers. These highly trained men and women selfishly give of their time and skills for the well-being and safety of our communities.

Day and night our volunteer firefighters, first responders, ambulance drivers and EMTs risk their lives to keep our homes and businesses safe and protect our families and neighbors in the event of an emergency situation. We all likely know someone who is alive today because of the work of these dedicated professionals who are an essential part of our communities' well-being. This issue is personally important to me because volunteer EMTs once saved my life and for that I will always be grateful.

Unfortunately, the incidence of employer discrimination directed at community volunteers is becoming more prevalent in Wisconsin. Too often, our volunteers are subject to unwarranted discipline simply because they are late or absent from work due to an emergency call.

To remedy this, Rep. Gunderson and I authored Senate Bill 308. A majority of the language is taken from model legislation from Ohio, which has clearly demonstrated this proposal can and does work to the best interests of citizens, communities and employers.

Senate Bill 308 does the following:

- \* By no later than 30 days after becoming a member of a volunteer fire department or becoming affiliated with an ambulance service provider, submits to the employer a written statement signed by the chief of the volunteer fire department or by the person in charge of the ambulance service provider notifying the employer that the employee is a volunteer firefighter, EMT, first responder, or ambulance driver.

- \* When dispatched to an emergency, makes every effort to notify the employer that the employee may be late for or absent from work due to the employee's responding to the emergency or, if prior notification cannot be made due to the extreme circumstances of the emergency or the inability of the employee to contact the employer, submits to the employer a written statement from the chief of the volunteer fire department or from the person in charge of the ambulance service provider explaining why prior notification could not be made;
- \* When late for or absent from work due to responding to an emergency, provides, on the request of the employer, a written statement from the chief of the volunteer fire department or from the person in charge of the ambulance service provider certifying that the employee was responding to an emergency at the time of the lateness or absence and indicating the date and time of the response to the emergency.
- \* The bill prohibits an employer from: 1) interfering with, restraining, or denying the exercise of the right of an employee who is a fire fighter, EMT, first responder, or ambulance driver to respond to an emergency as provided in the bill and from discharging or discriminating against such an employee in promotion, in compensation, or in terms, conditions, or privileges of employment for responding to an emergency as provided in the bill; 2) opposing a discharge or discrimination in violation of the bill; 3) filing a complaint or attempting to enforce a right under the bill; or 4) testifying or assisting in any action or proceeding to enforce a right under the bill.
- \* In addition, an employee whose right to respond to an emergency as provided in the bill is interfered with, restrained, or denied or who is discharged or discriminated against in violation of the bill may file a complaint with the Department of Workforce Development (DWD), and DWD must process the complaint in the same manner that employment discrimination complaints are processed under current law. If DWD finds that an employer has interfered with, restrained, or denied the right of an employee to respond to an emergency as provided in the bill or has discharged or discriminated against an employee in violation of the bill, DWD may order the employer to take action to remedy the violation, including reinstating the employee, providing compensation in lieu of reinstatement, providing back pay accrued not more than two years before the complaint was filed, and paying reasonable actual costs and attorney fees to the complaint.

SB 308 is a common sense solution to a growing problem. The bill has bi-partisan support and is endorsed by the Wisconsin Fire Chiefs' Association, the Wisconsin State Firefighters' Association and the Wisconsin EMS Association.

Thank you for your time and consideration. It is my hope the committee will act swiftly on this bill in recognition of the important work of our volunteer emergency personnel. Providing job protections to these brave men and women strengthens the protection and life-saving response they provide to our communities.



## Augusta – Bridge Creek Fire Department, Inc.

745 Industrial Drive • P.O. Box 470 • Augusta, WI 54722  
Phone: (715) 286-2295



Larry Plumer

October 13, 2009

I understand there is some upcoming legislation regarding volunteer firefighters and employers.

We have not had any major problems with this in the past. We have one firefighter who requires a written excuse from the chief to be excused and he is required to make up the time. We also have 3 firefighters employed by Pro Poly of America (who coincidentally manufacture poly tanks for fire apparatus) who are allowed to leave from work for fire calls and are paid for the first two hours they are absent. Bush Brothers Company is very understanding but require the employees to at least call in and advise them. We attempt to get everyone to his or her full time jobs on time. Nortech Systems, which is directly across the street from the fire station, allowed an employee to respond to EMS calls, however they have discontinued that practice in the past year.

Hopefully the bill will assist those having difficulty with this situation.

A handwritten signature in black ink, appearing to read "Ken".

Kenneth Zich  
Fire Chief

# WISCONSIN STATE FIREFIGHTER'S ASSOCIATION, INC.

Of Wisconsin

P.O. Box 126  
Durand, WI 54736

800-588-2989  
Fax 715-672-8333



October 14, 2009

Mr. Fire Chairman and members of Committee on Small Business, Emergency Preparedness, Technical College and Consumer Protection:

I am Larry Plumer, President of the Wisconsin State Firefighters Association which serves just under 12,000 firefighters. I also serve as President of the Wisconsin Fire & EMS Legislative Leadership Coalition, which serves the major fire groups and EMS associations in Wisconsin. In addition, I also serve as fire chief of the Durand City/Rural Fire Department and have served 43 years as a volunteer firefighter and EMS volunteer.

I'm here to speak in favor of Assembly Bill 464 relating to a requirement that an employee who is a volunteer firefighter, emergency medical technician, first responder or an ambulance driver for a volunteer fire department or fire company, public agency or a nonprofit corporation to be late or absent from work if the lateness or absence is due to the employee responding to an emergency that began before the employee is required to report to work.

Wisconsin has 863 fire departments; 701 of these are volunteer; 105 are combination volunteer; 35 Career paid on call and 21 tribal, federal or private departments which total approximately 30,000 firefighters. Of these 30,000 firefighters, 17,365 are volunteers; 9,154 are paid on call and 4,585 are career firefighters and combined and together they answer to more than 100,000 fire calls each year.

There are 450 ambulance services in Wisconsin; 180 EMT basics, 130 EMT-intermediate technicians, 20 EMT-intermediate and 110 EMT paramedics totaling over 20,000 EMS personnel and serve over 500,000 calls a year.

Many of these 50,000 personnel mentioned above in these two groups are volunteers, probably about 75% to 80%.

One of the biggest problems we face is being punished if late for work. I've been told that some have been punished with up to 3 days off and with no wages. One was slightly injured on Friday and was told to come to work on Tuesday and when she showed up, there was no longer a job for her. There have been many numerous stories but no one will put it on paper or testify due

Re: Assembly Bill 464  
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to the possibility of being laid off from their jobs or some form of discipline will occur. Some chiefs won't testify either as companies will know where it came from.

One way to solve this problem is to go full time or combination which will cost more, leading to higher taxes and make it hard to recruit firefighters to serve our communities or home and emergency services. We presently have many, many excellent volunteer departments and are able to work side by side with combination or career departments. This is also true in the EMS section.

What we are asking for is assistance to protect our families and our job; to be able to protect our communities and be able to help our neighbors when emergencies face us.

On behalf of all the firefighters and EMS personnel, I hope you will see it in your power to pass this bill. It is very important to all Wisconsin communities and their families.

Be safe and thank you for your time today.



# Wisconsin State Fire Chiefs Association

Together We Can Make A Difference

800-375-5886

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Education • Prevention • Safety • Supression • EMS

DATE: October 14, 2009  
TO: Assembly Committee on Labor  
FROM: Wisconsin State Fire Chiefs Association  
RE: Assembly Bill 464

The State of Wisconsin is dependant on the volunteers that provide emergency services to many of our communities. Approximately 85% of the firefighters in the State of Wisconsin are volunteer. Those volunteers sacrifice many hours away from their families to train for emergency situations, fund raise to purchase equipment and respond from the comfort of their homes to protect their communities. The volunteers are the backbone of many rural communities in Wisconsin.

Local communities are struggling with the current economy and have also struggled to recruit and retain volunteers to serve those communities. The volunteer fire departments and emergency medical services save those communities millions of dollars in wages and benefits, which do not have to be raised through taxes in those communities.

The Wisconsin State Fire Chiefs Association has been told of volunteer firefighters who have been disciplined with time off without pay and even dismissed from their job for coming to work late after an emergency incident. We would hope that employers understand that if they make it difficult for their employees to volunteer for the community the volunteer is going to usually choose to hang on to their job. When that happens the fire department loses that volunteer for that emergency response or even loses the volunteer completely because they give up the fire department. This is detrimental to the local communities and businesses because now the fire department does not have adequate resources to protect those businesses.

AB 464 will provide Wisconsin volunteers with the job protection that our volunteers deserve and will allow our small communities and businesses the protection that they expect. Please support AB 464.

If you have questions please contact Dave Bloom, Legislative Liaison, Wisconsin State Fire Chiefs Association at 608-444-3324.

6737 W. Washington St. • Suite 1420 • Milwaukee, WI 53214  
800-375-5886 • 414-755-6291 • Fax: 414-276-7704  
[info@wsfca.com](mailto:info@wsfca.com) • [www.wsfca.com](http://www.wsfca.com)

TO: Members, Assembly Committee on Labor  
Representative Christine Sinicki

FROM: Jeremy Levin, Director of Advocacy  
Rural Wisconsin Health Cooperative

DATE: October 14, 2009

RE: **Information Only** -Assembly Bill 464- Allowing Absence from Work for Emergency First Responders

On behalf of our thirty-five member rural hospitals, who take pride in serving their communities, the Rural Wisconsin Health Cooperative (RWHC) wants to express our concerns on Assembly Bill 464, relating to an allowance permitting an employee who is a type of first responder to be late for or absent from work due to the employee responding to an emergency.

While the job that a volunteer first responder does is difficult, greatly appreciated, and can be a crucial first step in patient care and entry into the health care system, AB 464 could have some unintended consequences on the health care system. Among them, absences of workers from a health care facility could:

- Lead to critical staffing levels that jeopardize patient care.
- Lead to care coordination problems that complicate and increase cost of care.

These factors are just some of the reasons that further consideration needs to be brought in reviewing SB 308. In the 24-hour, year-round environment of hospitals and other health care facilities, making sure proper patient coverage and care is provided is paramount. Patient intake can uptick quickly, adverse weather conditions, illness or scheduled leave might cause health care facilities to quickly become short-staffed. The blanket approach that AB 464 takes by allowing further absence without required notice to the health care facility may jeopardize patient care. All of this will be amplified in rural areas where the likelihood of staff being a volunteer first responder is greater and potential at finding a qualified substitute quickly will be more difficult.

Additionally, the fiscal note attached to this legislation acknowledges increased costs that are likely to occur through the use of overtime by local governments having to fill in for the missing employee. It is even more likely to assume that health facilities would also need to fill holes, and a high probability that the amount of emergency first responders is likely to be the same or higher than local government because of the similarities in duties.

It should be pointed out that Legislature is also considering additional legislation that would limit staffing strategies and use of overtime by health care facilities. Limiting the tools available to hospitals impairs their ability to insure that the correct number of staff is available whenever and wherever the need presents. AB 464 would potentially add another burden to healthcare facilities as they struggle to staff for unpredictable patient care demands.

Wisconsin's rural hospitals are strongly committed to improving patient safety as we provide quality and patient-centered care. RWHC asks the committee members to consider the possible negative ramifications of Assembly Bill 464 and any potential amendments that might alleviate the concerns raised. Hospitals and other health care facilities need as much notice and predictability to correctly staff facilities to provide the best patient care.



## Testimony

TO: Representative Christine Sinicki, Chair  
Members of the Assembly Committee on Labor  
FROM: Forbes McIntosh  
DATE: Wednesday, October 14, 2009  
RE: **Support Assembly Bill 464**

The Wisconsin EMS Association represents approximately 7,500 Emergency Medical Technicians (EMTs) and nearly 380 Emergency Medical Services (EMS) in Wisconsin.

The Wisconsin EMS Association has worked in coordination with the Wisconsin State Firefighters' Association and the Wisconsin State Fire Chiefs' Association on the legislation the Committee is considering today.

It is important to note that approximately 80% of Wisconsin's EMTs are volunteers. Wisconsin residents, businesses and government relies heavily upon the goodwill and sacrifice of our local men and women willing to take the time, expense and work it takes to first become a licensed EMT and then to work \ volunteer an 8-hour shift.

Please understand that an EMS Service is required to staff its service 24-hours per day 7-days per week with two EMTs on each ambulance. Although an ambulance may have several calls during a shift or none at all – that ambulance must be staffed at all times with 2 EMTs.

All of us are busy with our jobs, family and the various activities that fill our lives. I find it amazing that we have such committed individuals willing to volunteer so much of their lives to EMS.

However, the reality is that today it is becoming increasingly more difficult to find those men and women willing to undertake the required education and time to become a licensed EMT and then after becoming licensed be willing to volunteer 2-3 eight-hour shifts per week and weekend to staff that ambulance.

The Wisconsin EMS Association believes this legislation is necessary to not only protect the individuals who volunteer – but to maintain and promote the very act of emergency services volunteering.



We all benefit from these men and women who volunteer as EMTs, Firefighters and First Responders. They save lives and frankly they keep your property taxes down.

You will notice that Senate Bill 308 and Assembly Bill 464 are not the same proposals you have seen in the past. The organizations representing emergency services last session decided to look at states with volunteer job protection laws that work for both the employee and the employer. The State of Ohio provided us with the model legislation that we believe will provide Wisconsin with that balanced and fair approach.

### **What the bill does:**

Requires an employer to permit an employee who is a volunteer Firefighter, EMT, First Responder, or Ambulance driver to be late for or absent from work, without pay, if the lateness or absence is due to the employee responding to an emergency that begins before the employee is required to report to work and if the employee does all of the following:

- By no later than 30 days after becoming a member of a volunteer fire department or becoming affiliated with an ambulance service provider, submits to the employer a written statement signed by the chief of the volunteer fire department or by the person in charge of the ambulance service provider notifying the employer that the employee is a volunteer firefighter, EMT, first responder, or ambulance driver.
- When dispatched to an emergency, makes every effort to notify the employer that the employee may be late for or absent from work due to the employee's responding to the emergency or, if prior notification cannot be made due to the extreme circumstances of the emergency or the inability of the employee to contact the employer, submits to the employer a written statement from the chief of the volunteer fire department or from the person in charge of the ambulance service provider explaining why prior notification could not be made.
- When late for or absent from work due to responding to an emergency, provides, on the request of the employer, a written statement from the chief of the volunteer fire department or from the person in charge of the ambulance service provider certifying that the employee was responding to an emergency at the time of the lateness or absence and indicating the date and time of the response to the emergency.
- The bill prohibits an employer from: 1) interfering with, restraining, or denying the exercise of the right of an employee who is a fire fighter, EMT, first responder, or ambulance driver to respond to an emergency as provided in the bill and from discharging or discriminating against such an employee in promotion, in compensation, or in terms, conditions, or privileges of employment for responding to an emergency as provided in the bill; 2) opposing a discharge or discrimination in violation of the bill; 3) filing a complaint or attempting to enforce a right under the bill; or 4) testifying or assisting in any action or proceeding to enforce a right under the bill.

- An employee whose right to respond to an emergency as provided in the bill is interfered with, restrained, or denied or who is discharged or discriminated against in violation of the bill may file a complaint with the Department of Workforce Development (DWD), and DWD must process the complaint in the same manner that employment discrimination complaints are processed under current law. If DWD finds that an employer has interfered with, restrained, or denied the right of an employee to respond to an emergency as provided in the bill or has discharged or discriminated against an employee in violation of the bill, DWD may order the employer to take action to remedy the violation, including reinstating the employee, providing compensation in lieu of reinstatement, providing back pay accrued not more than two years before the complaint was filed, and paying reasonable actual costs and attorney fees to the complaint.

Thank you for your consideration in this matter. On behalf of the 7,500 Wisconsin EMS Association members, we urge the Committee to support passage of Assembly Bill 464 as provided.

WISCONSIN HOSPITAL ASSOCIATION, INC.



To: Members of the Assembly Committee on Labor,  
Representative Christine Sinicki, Chair  
From: Judy Warmuth RN, Vice President Workforce Development  
Wisconsin Hospital Association  
RE: Testimony for information on AB 464  
Date: October 15, 2009

Chair Sinicki and Committee Members:

Thank you for the opportunity to testify today. My name is Judy Warmuth and I am the Vice President of Workforce for the Wisconsin Hospital Association (WHA). I am also a registered nurse with many years experience in hospital nursing and nurse leadership roles.

WHA recognizes the valuable and important role played by volunteers in our communities. Volunteers are partners with hospitals in providing many critical health and healthcare services. We also understand the intent behind this proposed legislation to encourage and support volunteer efforts.

But I am here today to raise the issue of unintended impact this proposed legislation could have on hospitals. Many voluntary emergency providers are full or part-time employees in hospitals. Their presence on duty, in the hospital role is important – even critical – in providing care to our patients. Hospitals are responsible for the patients in their care 24 hours a day, 7 days per week. When an employee fails to appear for a scheduled shift, care for our patients is put at risk. Hospitals that are unprepared or even uninformed about a staff absence will not be able to provide care as planned.

When a volunteer employee, scheduled to work in the emergency room fails to report for work, a hospital's ability to receive patients is compromised. In this case, the risk is that a volunteer manned ambulance will arrive at an ER to find that it does not have the staff to accept patients. I cannot believe this is the intent of the bill, but it is a possible consequence in a small hospital.

It is also ironic that while proposing that employees be allowed to be absent or late for work, the legislature is also considering a separate proposal that would prevent hospitals from expecting an employee to stay beyond their scheduled shift to provide care to patients in the event of staffing crisis.

I am asking the committee to consider carefully the potential risk to hospital staffing, patients and patient care created by this bill. We believe that hospitals should be exempt from the definition of employers in the bill and have raised the issue with supporters and authors.

Thank you.